

[Federal Register: October 26, 2000 (Volume 65, Number 208)]
[Rules and Regulations]
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[DOCID:fr26oc00-5]

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DEPARTMENT OF THE TREASURY
Customs Service
19 CFR Part 12
[T.D. 00-75]
RIN 1515-AC70

Import Restrictions Imposed On Archaeological Material From the
Prehispanic Cultures of the Republic of Nicaragua

AGENCY: Customs Service, Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to reflect the imposition of import restrictions on certain archaeological material ranging in date from approximately 8000 B.C. through approximately 1500 A.D. and representing prehispanic cultures of the Republic of Nicaragua. These restrictions are being imposed pursuant to an agreement between the United States and Nicaragua that has been entered into under the authority of the Convention on Cultural Property Implementation Act in accordance with the United Nations Educational, Scientific and Cultural Organization (UNESCO) Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property. The document amends the Customs Regulations by adding Nicaragua to the list of countries for which an agreement has been entered into for imposing import restrictions. The document also contains the Designated List of Archaeological Material that describes the types of articles to which the restrictions apply.

EFFECTIVE DATE: October 26, 2000.

FOR FURTHER INFORMATION CONTACT: (Legal Aspects) Joanne Stump,
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Aspects) Al Morawski, Trade Operations (202) 927-0402.

SUPPLEMENTARY INFORMATION:

Background

The value of cultural property, whether archaeological or ethnological in nature, is immeasurable. Such items often constitute the very essence of a society and convey important information concerning a people's origin, history, and traditional setting. The importance and popularity of such items regrettably makes them targets of theft, encourages clandestine looting of archaeological sites, and results in their illegal export and import.

The U.S. shares in the international concern for the need to protect endangered cultural property. The appearance in the U.S. of stolen or illegally exported artifacts from other countries where there has been pillage has, on occasion, strained our foreign and cultural relations. This situation, combined with the concerns of museum, archaeological, and scholarly communities, was recognized by the President and Congress. It became apparent that it was in the national interest for the U.S. to join with other countries to control illegal trafficking of such articles in international commerce.

The U.S. joined international efforts and actively participated in deliberations resulting in the 1970 UNESCO Convention on the Means of Prohibiting and Preventing the Illicit Import, Export and Transfer of Ownership of Cultural Property (823 U.N.T.S. 231 (1972)). U.S. acceptance of the 1970 UNESCO Convention was codified into U.S. law as the "Convention on Cultural Property Implementation Act" (Pub.L. 97-446, 19 U.S.C. 2601 et seq.) ("the Act"). This was done to promote U.S. leadership in achieving greater international cooperation towards preserving cultural treasures that are of importance to the nations from where they originate and in achieving greater international understanding of mankind's common heritage.

During the past several years, import restrictions have been imposed on archaeological and ethnological artifacts of a number of signatory nations. These restrictions have been imposed as a result of requests for protection received from those nations as well as pursuant to bilateral agreements between the United States and other countries. More information on import restrictions can be found on the International Cultural Property Protection web site (<http://exchanges.state.gov/education/culprop>).

Import restrictions are now being imposed on certain archaeological material of Nicaragua representing the prehispanic period of its cultural heritage as the result of a bilateral agreement entered into between the United States and Nicaragua pursuant to 19 U.S.C. 2602. This agreement was signed on June 16, 1999, and, following completion by the Government of Nicaragua of all internal legal requirements, entered into force on October 20, 2000, with the exchange of diplomatic notes. Accordingly, Sec. 12.104g(a) of the Customs Regulations is being amended to indicate that restrictions have been imposed pursuant to the agreement between the United States and Nicaragua. This document amends the regulations by imposing import restrictions on certain archaeological material from Nicaragua as described below.

Material Encompassed in Import Restrictions

In reaching the decision to recommend protection for Nicaragua's cultural patrimony, the Deputy Director of the former U.S. Information Agency (USIA) has determined that, pursuant to the requirements of the Act, the cultural patrimony of Nicaragua is in jeopardy from the pillage of archaeological materials which represent its [[Page 64141]] prehispanic heritage. (Pursuant to the Foreign Affairs Reform and Restoration Act of 1998 (112 Stat. 2681, et seq.), most of USIA was consolidated with the Department of State on October 1, 1999.) Ranging in date from approximately 8000 B.C. to approximately 1500 A.D., categories of restricted artifacts include, but are not limited to: figurines of stone, ceramic, shell, and metal; ceramic polychrome vessels, drums, and other small ceramic objects; stone vessels, stone statues, small stone artifacts, and stone metates (carved three-legged

grinding stones); and jade and metal (gold) artifacts. These materials of cultural significance are irreplaceable. The pillage of these materials from their context has prevented the fullest possible understanding of the prehispanic cultural history of Nicaragua by systematic destruction of the archaeological record. Furthermore, the cultural patrimony represented by these materials is a source of identity and esteem for the modern Nicaraguan nation.

Designated List

The bilateral agreement between Nicaragua and the United States covers the categories of artifacts described in a Designated List of Pre-Columbian (prehispanic) Archaeological Materials from Nicaragua, which is set forth below. Importation of articles on this list is restricted unless the articles are accompanied by an appropriate export certificate issued by the Government of the Republic of Nicaragua or documentation demonstrating that the articles left the country of origin prior to the effective date of the import restriction.

Pre-Columbian Archaeological Materials From Nicaragua Representing Prehispanic Cultures Ranging In Date Approximately From 8000 B.C. to 1500 A.D.

I. Ceramics

The diverse regions of Nicaragua have produced a wide variety of ceramic types and subtypes. Representative types are listed below according to their earliest occurrence but may continue into the succeeding period.

A. Vessels

1. Period III (c. 4000-1000 B.C.)--Types include Toya Incised, Palmar Incised, Rosales Zoned Engraved, Espinoza Red Striped, Rivas Negative, Usulután-like styles, and Cukra Point Complex.

2. Period IV (c. 1000 B.C.-500 A.D.)--Types include Bocana Incised, Matanga Polychrome, Red Jobo Excised, Chaguitillo Polychrome, Rodeo Sieve, Red Andes Incised, Jicaro Polychrome, Red Coyolito Engraved, Bonifacio Excised and Engraved, Guarumo Incised and Punctate, Red-on-Biege Nispero, White-on-Brown Capulin, Black-on-Beige Yoboa Excised Polychrome, Jarkin Complex, Smalla Complex, and Siteia Complex.

3. Period V (c. 500-1000 A.D.)--Types include Chavez White-on-Red, Velasco with Black Stripes, Potosi Applique, Leon Punctate, Tola Trichrome, Papagayo Polychrome, Mora Polychrome, Sacasa Striated, Pataky Polychrome, Ometepe Red-Slipped Incised, Delirio Red-on-White, Subasa Polychrome, Oregano Polychrome, Zamora Incised, Red-and-Black Drum, Arrayan Black Incised, Ulua Polychrome, Babilonia Polychrome, Cacaulli Red-on-Orange, Tenampua Polychrome, Tapias Polychrome.

4. Period VI (c. 1000-1550 A.D.)--Types include Vallejo Polychrome, Castillo Engraved, Luna Polychrome, Madeira Polychrome, Murrillo Applique, Patastule-on-Red Bands, Combo Sieve, Carlitos Polychrome, Red-and-White Oluma, Miragua, Red Coronado.

B. Seals and Beads

Seals are small cylindrical objects with a hole lengthwise through the center, usually made of ceramic, used to roll an impressed pattern. Their usual size is about 5 cm long and about 2.5 cm in diameter. Also

present are flat rectangular stamp seals. These are carved with geometric designs or stylized human figures. Ceramic beads also occur.

C. Spindle Whorls

Disk and conical-shaped ceramic objects, 2-7 cm in diameter, used as spindle whorls. Most have incised geometric designs.

II. Stone

A. Statues (c. 800-1550 A.D.)

These seated, standing, or columnar stone statues are characteristic of the islands in Lake Nicaragua and the Chontales and Rivas areas around the lakes. Made of well-finished basalt, they reach up to four meters in height. Some examples may date earlier than 800 A.D. The most characteristic subject is a human figure and an associated animal. The animal is either lying on the back and shoulders of the human figure or an animal head resting on top of the human head. Other subjects include human figures sitting on a column or with arms bent across the chest.

B. Vessels

Ceremonial vessels are made of stone in the typical ceramic styles. These are mainly known from the northern area of Nicaragua and they are similar in style to vessels originating in Honduras.

C. Grinding Stones

Grinding stones (metates) are usually carved of basalt. Most often, they consist of a simple curved platform supported by three legs. They range in length from about 60 cm to 150 cm. The type most commonly collected is elaborately carved with geometric or anthropomorphic motifs on the legs and sides. Sometimes an effigy head, such as a bird or other animal, is added to one end. These are known to occur in the Pacific coastal area and the islands in Lake Nicaragua.

D. Petroglyphs (Incised or Carved Natural Rock Formations)

Geometric designs or relief figures representing humans and animals carved directly into living rock. These are found throughout Nicaragua. Some of the best known come from the islands in Lake Nicaragua. These are frequently cut out of the natural rock formation and removed from their original context.

E. Mace Heads

Small, highly polished, spherical, or oblong objects of various kinds of stone, with a hole through the center. Mace heads are frequently in the form of animal or human heads, or with geometrical designs carved into the surface. Their maximum dimension ranges from about two to six inches. They are best known from the Pacific coastal area.

F. Greenstone Objects

A wide variety of highly polished ornamental small objects, usually pendants made of green-colored quartz, jadeite, serpentine, and similar materials. Human, animal, and other motifs are represented, although birds are most common. The objects range in size from about two to six inches, and they are usually drilled for suspension.

G. Jewelry

Stone beads and other items for personal adornment.

H. Chipped Stone Tools

Arrowheads and other tools or weapons.

III. Gold

Pendants and other decorative ornaments with a wide variety of shapes and motifs, including animal and human figures. The gold is sometimes [[Page 64142]] mixed with copper giving the objects a slightly reddish appearance.

IV. Shell

Natural shell pierced for stringing in necklaces.

Inapplicability of Notice and Delayed Effective Date

Because the amendment to the Customs Regulations contained in this document imposing import restrictions on the above-listed cultural property of Nicaragua is being made in response to a bilateral agreement entered into in furtherance of the foreign affairs interests of the United States, pursuant to section 553(a)(1) of the Administrative Procedure Act, (5 U.S.C. 553(a)(1)), no notice of proposed rulemaking or public procedure is necessary. For the same reason, a delayed effective date is not required pursuant to 5 U.S.C. 553(d)(3).

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required, the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) do not apply. Accordingly, this final rule is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

Executive Order 12866

This amendment does not meet the criteria of a "significant regulatory action" as described in E.O. 12866.

Drafting Information

The principal author of this document was Bill Conrad, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 12

Customs duties and inspections, Imports, Cultural property.

Amendment to the Regulations

Accordingly, part 12 of the Customs Regulations (19 CFR part 12) is amended as set forth below:

PART 12--[AMENDED]

1. The general authority and specific authority citations for part 12, in part, continue to read as follows:

Authority: 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Note 20, Harmonized Tariff Schedule of the United States (HTSUS)), 1624;

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Sections 12.104 through 12.104i also issued under 19 U.S.C. 2612;
* * * * *
Sec. 12.104g [Amended]

2. In Sec. 12.104g, paragraph (a), the table is amended by adding
Nicaragua in appropriate alphabetical order as follows:

StateCultural property	T.D. No.
Nicaragua.....	Archaeological T.D. 00-75 Material of pre-Columbian cultures ranging approximately from 8000 B.C. to 1500 A.D.

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Raymond W. Kelly,
Commissioner of Customs.
Approved: September 8, 2000.
John P. Simpson,
Deputy Assistant Secretary of the Treasury.
[FR Doc. 00-27593 Filed 10-25-00; 8:45 am]
BILLING CODE 4820-02-P